



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

May 28, 2021

Memorandum for: Deputy Commissioner, Trials

Re: **Lieutenant Robert Zevon**
Tax Registry No. 905333
28th Precinct
Disciplinary Case No. 2019-20336

The above named member of the service appeared before Assistant Deputy Commissioner Paul M. Gamble on February 23, 2021, and was charged with the following:

DISCIPLINARY CASE NO. 2019-20336

1. Said Lieutenant Robert Zevon, while on-duty and assigned to Critical Response Command, on or about and between July 2, 2017 to March 25, 2019, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Lieutenant conducted personal business on Department time by spending three to four hours at the 17th Precinct, on almost a daily basis, without permission or authority.

P.G. 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT –
PROHIBITED CONDUCT**

2. Said Lieutenant Robert Zevon, while on-duty and assigned to Critical Response Command on or about and between July 2, 2017 to March 25, 2019, wrongfully and without just cause failed to supervise other Members of the Service under his supervision, to wit: said Lieutenant was absence from his assignment for approximately three to four hours at the 17th Precinct, on almost a daily basis, without permission or authority

P.G. 202-17, Page 1, Paragraph 2

PATROL SUPERVISOR

3. Said Lieutenant Robert Zevon, while on-duty and assigned to Critical Response Command, on or about and between July 2, 2017 to March 25, 2019, failed to accurately maintain his Activity Logs (PD112-145), in that he did not make entries regarding his meal time and/or being absence from his assignment.

P.G. 212-08, Page 1, Paragraph 1 (a)(3)

ACTIVITY LOGS

P.G. 212-08, Page 1, Paragraph 1 (c)(4)

In a Memorandum dated March 19, 2021, Assistant Deputy Commissioner Paul M. Gamble found Lieutenant Robert Zevon Guilty of all specifications in Disciplinary Case No. 2019-20336, after Lieutenant Zevon entered a plea of Guilty. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of the issues and circumstances in this matter, and deem that a penalty that does not require separation from the Department is warranted. While the misconduct in this matter is serious, Lieutenant Zevon's lengthy and positive service record and the likelihood of his continuing to positively contribute to this Department must be taken into consideration.

Therefore, Lieutenant Robert Zevon shall forfeit thirty-one (31) suspension days already served, forfeit fifty-nine (59) vacation days, and be placed on one (1) year dismissal probation, as a disciplinary penalty.


Dermot Shea
Police Commissioner



POLICE DEPARTMENT

March 19, 2021

-----X

In the Matter of the Charges and Specifications	:	Case No.
- against -	:	
Lieutenant Robert Zevon	:	2019-20336
Tax Registry No. 905333	:	
28 th Precinct	:	

-----X

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Paul M. Gamble
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Jamie Moran, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: James Moschella, Esq.
Karasyk & Moschella, LLP
233 Broadway, Suite 2340
New York, NY 10279

To:

HONORABLE DERMOT F. SHEA
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

1. Said Lieutenant Robert Zevon, while on-duty and assigned to Critical Response Command, on or about and between July 2, 2017 to March 25, 2019, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Lieutenant conducted personal business on Department time by spending three to four hours at the 17th Precinct, on almost a daily basis, without permission or authority.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT –
PROHIBITED CONDUCT

2. Said Lieutenant Robert Zevon, while on-duty and assigned to Critical Response Command on or about and between July 2, 2017 to March 25, 2019, wrongfully and without just cause failed to supervise other Members of the Service under his supervision, to wit: said Lieutenant was absence (sic) from his assignment for approximately three to four hours at the 17th Precinct, on almost a daily basis, without permission or authority.

P.G. 202-17, Page 1, Paragraph 2

PATROL SUPERVISOR

3. Said Lieutenant Robert Zevon, while on-duty and assigned to Critical Response Command on or about and between July 2, 2017 to March 25, 2019, failed to accurately maintain his Activity Logs (PD112-145), in that he did not make entries regarding his meal time and/or being absence (sic) from his assignment.

P.G. 212-08, Page 1, Paragraph 1 (a)(3)

ACTIVITY LOGS

P.G. 212-08, Page 1, Paragraph 1 (c)(4)

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me remotely on February 23, 2021. Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having carefully reviewed all of the evidence in this matter, I find that no mitigation is warranted, and recommend that Respondent be DISMISSED from this Department.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent testified to a summary of his career from patrol duties until his assignment to the Critical Response Command. Among the highlights of his career were saving two suicidal

citizens; responding to the scene of a terrorist attack in Times Square in 2017; clearing the Time Square Post Office with the Heavy Weapons and Explosive Detection K-9 units after suspected improvised explosive devices were mailed to the building in 2018; and being recognized by a now-retired Chief for exercising weapons discipline in the face of an assault by a machete-wielding suspect. Respondent was promoted to sergeant in 2000 and to lieutenant in 2004. (Tr. 12-17, 31-32)

Respondent testified that he was assigned to the Critical Response Command (CRC) on October 16, 2015. The command is located on Randall's Island, where Respondent would perform his duties unless he was detailed elsewhere. On a rotating basis, he was assigned to be the platoon leader for the Heavy Weapons platoon, also known as Stryker. The teams usually consisted of three sergeants, each of whom supervised four to six Members of Service. Each member of the team was equipped with a helmet, heavy ballistic armor and an M-4 rifle. These three teams would be deployed throughout the city, with one team regularly assigned to "Military Island" in Times Square. Part of his duties included checking in with the deployed units and periodically relieving the sergeants to permit them to take their meal breaks. Respondent was assigned a police officer to act as his operator. (Tr. 20-25, 33-34, 49-55)

Respondent testified that when he was detailed as the Stryker Platoon commander, he would have his operator drive him to the 17th Precinct, rather than remain at the Randall's Island CRC headquarters. He testified that he chose this location because he believed it was central to the city and afforded him the opportunity to respond quickly to any scene at which his presence was deemed necessary. Respondent also chose that precinct because he was familiar with it, having served as a 2nd Platoon commander there. (Tr. 20, 27-28, 30, 43)

Respondent testified that it was his practice to take his meal and to work out while at the 17th Precinct. He conceded that he neither sought nor obtained authorization from either his superiors at the Critical Response Command or the Commanding Officer of the 17th Precinct to do so. Respondent testified that he also used this time to prepare Department paperwork and perform other administrative duties, in addition to [REDACTED] [REDACTED]. He further conceded that on the occasions he used the 17th Precinct as an unofficial forward operating base, he spent three to four hours there, for an aggregate of 555 hours over the period from July 2, 2017 to March 25, 2019. Respondent admitted that he did not make activity log entries reflecting these periods when he conducted personal business. (Tr. 29, 34-35, 56-59, 63, 73)

Respondent testified that had he been summoned to a location, he could have broken away from his workout routine and been mobile within five to six minutes. He also testified that his operator would work out with him. When he was questioned about his misconduct at his official Department interview, Respondent admitted to his guilt and informed investigators that his operator was only following his directions at the time he was present at the 17th Precinct. (Tr. 34-36, 68)

Respondent testified that once he served his initial period of suspension, and was reassigned from CRC, he resolved to perform his duties in an exemplary manner. He offered in evidence numerous memoranda from executives who spoke favorably of his performance of duty, despite noting that he had been found guilty of misconduct. One such executive, Inspector Larson, expressed the desire to have Respondent work as the Commanding Officer of the VIPER Command covering the Bronx and Queens. However, the Department decentralized VIPER and he was instead transferred to the 28th precinct. (Tr. 37-40)

Respondent testified that he was aware that his assignment as the Stryker Platoon commander required a greater level of judgement and attention to detail than other assignments in this Department and that his unauthorized routine was a distraction from the focus that his superiors and subordinates had a right to expect. (Tr. 69-71)

PENALTY

In order to determine an appropriate penalty, the Tribunal, guided by the Department Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including aggravating and mitigating factors. Pursuant to 38 R.C.N.Y. § 15-07, Respondent's employment record was also taken into account (*See Matter of Pell v. Board of Educ.*, 34 N.Y.2d 222, 240 [1974]). Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. Respondent has a formal disciplinary record.

Respondent, who was appointed on August 30, 1993, has pleaded guilty to the three charges against him: conducting personal business on Department time, being absent from his assignment without permission or authority and failure to accurately maintain his Activity Logs. The Department Advocate recommends that Respondent be terminated. Respondent has served 31 pre-penalty suspension days.

Respondent has a formal disciplinary history. In 2012, he forfeited 30 suspension days and 20 vacation days after pleading guilty to failing to comply with a lawful order directing him to refrain from disclosing any information regarding an Internal Affairs Bureau investigation and disclosing confidential Department business to another Member of the Service attempting to prevent the performance of police duties.

According to the NYPD Disciplinary System Guidelines for conducting personal business while on duty, the presumed penalty is 10 penalty days. The presumed penalty for misuse of time is a minimum of 15 penalty days, forfeiture of time and leave balances, and restitution. The penalty may increase based upon the amount of time misused or the severity of the misuse, including the sanction of dismissal probation. I note that there is no presumptive penalty for failure to accurately maintain activity logs under the Guidelines.

The Department argues that several aggravating factors have been established: (1) the knowledge, training and experience of the respondent involved; and (2) the nature of the event is such that it allowed time for deliberate reflection or action. The Guidelines further establish that an individual respondent's status as a supervisor will generally be viewed as an aggravating factor.

I find that the Department Advocate has established the presence of the aggravating factors discussed above by a preponderance of the credible, relevant evidence. As a supervisor, Respondent's deliberate decision to engage in an activity which would distract him from his significant duties is inexcusable. He did so in a manner which placed his operator, a subordinate Member of Service, who had the right to expect that his superior would set a good example, in the position of acquiescing to Respondent's decision or placing his supervisor on report. I find it an unprofessional usurpation of Respondent to have put a police officer under his command in that position with such a brazen violation of Department rules.

As a practical matter, his duties required him to be ready to deploy at a moment's notice to the most challenging environments in which a Member of Service may find himself. His subordinates and superiors, and indeed the City, depended upon him to make split-second judgements in real time. Because of the unique nature of the Critical Response Command

mission, any time they would be called into service, lives would likely be at risk. In spending three to four hours per tour in the gym and having lunch, he effectively abandoned his post.

By his own admission, Respondent selected the 17th Precinct as a locus for his activity during the duty days when he was assigned as the Stryker Platoon Commander. This decision was made primarily for his convenience and because of his familiarity with the facility. He admitted that he did not seek authorization from either his parent command or the 17th Precinct commanding officer. I further find that because he had previously been assigned to that precinct as a platoon commander, he likely thought he would attract little notice. This arrangement facilitated the unauthorized and unsupervised restructuring of his duty day, in violation of Department rules. This was not a one or two-time occurrence, but a systematic flouting of the Patrol Guide over a period of 20 months.

The Guidelines also recognize several mitigating factors which may provide a basis for reducing the severity of the penalty. I find that three such factors have been proven by a preponderance of the credible, relevant evidence: (1) the veracity of the respondent and level of cooperation with the investigation; (2) the acceptance of responsibility and any remedial or mitigating actions taken; and (3) any positive employment history including any notable accomplishments.

I credit the various anecdotal evidence Respondent testified to, with respect to highlights of his career. He accepted responsibility for his actions during his official Department interview, which I find to be mitigating. Respondent expressed remorse for his misconduct during his testimony, which I find to be further evidence of mitigation.

Respondent's personal bravery in the face of imminent danger is unassailable. Although not explicitly set forth as a mitigating factor in the Guidelines, I note the letters of support from senior executives who have either worked with or supervised Respondent. It is a testament to the culture of this Department that they would offer such support to a fellow Member of Service who, despite being charged with significant misconduct, has provided dutiful service in the past.

Despite my finding that there are, indeed, mitigating factors present in this case, those factors do not outweigh the aggravating factors. It is truly unfortunate that Respondent's professional accomplishments over a 27-year career, of which he is rightly proud, is overshadowed by the gravity of his misconduct over a 20-month period.

In order to fashion a penalty consistent with good order, discipline and efficiency in this Department, this Court cannot, under these facts, recommend any penalty other than one involving separation from the Department. Pursuant to Administrative Code § 14-115 (a), termination is the only such recommendation this Tribunal can make. Therefore, the Court recommends that Respondent be DISMISSED from the Department.

Respectfully submitted,

Paul Gamble
Paul M. Gamble

Assistant Deputy Commissioner Trials





POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
LIEUTENANT ROBERT ZEVON
TAX REGISTRY NO. 905333
DISCIPLINARY CASE NO. 2019-20336

Respondent was appointed to the Department on August 30, 1993. On his last three annual performance evaluations, he received 4.5 overall ratings of "Highly Competent/Extremely Competent" for 2014, 2015 and 2016. He has been awarded 20 medals for Excellent Police Duty and eight medals for Meritorious Police Duty.

In 2012, Respondent forfeited 30 pre-trial suspension days without pay and 20 vacation days after pleading guilty to (i) failing to comply with a lawful order not to disclose any information regarding an IAB investigation and (ii) divulging confidential Department business to another MOS, thus attempting to interfere with the performance of police duties. In connection with the instant matter, Respondent was suspended for 30 days and placed on Level I performance monitoring. Monitoring remains ongoing.

For your consideration.

Paul Gamble
Paul M. Gamble

Assistant Deputy Commissioner Trials